

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

DONALD JONES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 3:19-CV-200-WKW
	)	[WO]
ROBERT WILKIE, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

On April 22, 2019, the Magistrate Judge recommended that Plaintiff's complaint be dismissed for failure to prosecute and abide by orders of the court. (Doc. # 11.) Plaintiff timely objected. (Doc. # 12.) After an independent and *de novo* review of the record, the Recommendation, and the objections, the court finds that the objections are due to be overruled and the Recommendation adopted.

Plaintiff objects that, under 28 U.S.C. § 1915(g), he should not be required to pay the filing fee because he is "under imminent danger of serious physical injury." Plaintiff claims that the U.S. Department of Veterans Affairs "for the past 11 months [has] denied Plaintiff medical treatment and his life-sustaining medications to cause his death or force him into a life of crime." (Doc. # 12, at 3.)

But the Magistrate Judge did not apply § 1915(g)'s "three strikes" rule in recommending dismissal, so the "imminent danger" exception to that rule does not

apply. Moreover, that exception does not provide a freestanding ground for excepting the payment of fees. The Magistrate Judge concluded that the affidavit Plaintiff attached in support of his motion to proceed *in forma pauperis* showed that he was in fact able to pay the filing fee. (Doc. # 8.) That conclusion was upheld by the District Judge on review (Docs. # 9, 10), and the court finds no reason to revisit it now.

It is therefore ORDERED:

- (1) The Recommendation (Doc. # 11) is ADOPTED.
- (2) Plaintiff's objections (Doc. # 12) are OVERRULED.
- (3) This case is DISMISSED without prejudice for failure to prosecute and abide by orders of the court.

A separate final judgment will be entered.

DONE this 26th day of June, 2019.

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/s/ W. Keith Watkins  
UNITED STATES DISTRICT JUDGE